

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
CHARLESTON DIVISION**

COLONY INSURANCE COMPANY,)	Civil No. 9:12-CV-0272
)	
Plaintiff,)	ORDER
)	
vs.)	
)	
MIKELL, WEIDNER, WEGMANN)	
& HARPER,)	
)	
Defendant.)	
_____)	

This matter is before the court on plaintiff's motion to dismiss defendant's counterclaim pursuant to Federal Rule of Civil Procedure 12(b)(6) and motion for judgment on the pleadings pursuant to Rule 12(c). Accepting all of the non-moving party's factual allegations as true and drawing all reasonable inferences in its favor, the court finds that defendant has made a plausible claim for relief and therefore, denies plaintiff's 12(b)(6) motion to dismiss defendant's bad faith counterclaim. "[A] Rule 12(c) motion for judgment on the pleadings is decided under the same standard as a motion to dismiss under Rule 12(b)(6)." Deutsche Bank Nat'l Trust Co. v. I.R.S., 361 Fed. App'x 527, 529 (4th Cir. 2010). Thus, the court must draw all reasonable inferences from the facts as the non-moving party, the defendant, presents them. At this early stage of litigation, many of the facts are in dispute. Rule 12(c) is not intended to be a substitute for summary judgment, and the court may not consider matters outside of the pleadings and exhibits attached to the complaint. Viewing the facts in the light most favorable to the non-moving party, the court denies plaintiff's 12(c) motion for judgment on the pleadings.

For the foregoing reasons, the court **DENIES** plaintiff's motions.

AND IT IS SO ORDERED.

A handwritten signature in black ink, appearing to read 'D. Norton', is positioned above a horizontal line.

DAVID C. NORTON
UNITED STATES DISTRICT JUDGE

June 8, 2012
Charleston, South Carolina